

OGC Has Reviewed

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STANDARD FORM NO. 64

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Office Memorandum • UNITED STATES GOVERNMENT

TO : Chief of Logistics DATE: 18 March 1954
FROM : Office of General Counsel
SUBJECT: Use of Vehicles by National Security Council

1. Paragraph 9 of memorandum dated March 4, 1954 from Chief of Logistics to General Counsel requests an opinion as to whether the Executive Secretary, and the Administrative Officer, National Security Council, are entitled to use Government vehicles for other than official purposes to travel to their offices from home, or vice versa.

2. Prior to expressing a formal opinion, we note that memorandum dated November 25, 1953 containing the informal comments of the Assistant General Counsel to the Executive Officer, DD/A, has been annexed as a supporting document of the study concerned. The sole purpose of that memorandum was to provide informal guidance and background information to the DD/A in connection with a staff meeting concerning utilization level of Agency vehicles, past and then contemplated. Circulation was not intended beyond the immediate addressee. Hence, it is not to be regarded as a memorandum of general applicability and, consequently, should not be regarded as an office opinion.

3. The limiting purposes of Section 16(a) of Public Law 600, 79th Congress, 60 Stat. 810, are so well known that a general resume' would only further redundancy. Suffice to say, the prohibition against the use of Government-owned or leased vehicles is not novel to Government administration, legislation, or regulations, general appropriation acts having enacted identical provisions as a matter of annual legislative practice, e.g. Section 202 of the Independent Offices Appropriation Act, 1946, approved May 3, 1945, 59 Stat. 132. It is equally fundamental that a Government employee must bear the cost of travel from and to his residence, to and from his place of business. It is obvious that such use does not constitute an "official purpose." 19 Comp. Gen. 836; 23 ibid 352. The concept of "official purposes" have been so concretized in Public Law 600.

4. Certain classes of officials have been removed from the general inhibition of the statute and constitute exceptions. Pertinent language reads as follows:

"Sec. 5(c)(2) . . . The limitations of the paragraph shall not apply to any motor vehicles or aircraft for official use of the President, the heads of the executive department enumerated in 5 U.S.C. 1, ambassadors, ministers,

charges d'affaires, and other principal diplomatic and consular officials."

5. There is no safer nor better established principle of statutory interpretation than that when language is clear and unambiguous it must be held to mean what it plainly expresses. The above enumeration is exclusive and does not include the National Security Council or its officials. We have no choice but to conclude that the cited canon of statutory construction is for application here.

6. We hasten to add that the utilization of Agency vehicles as authorized in Section 10(a)(1) of Public Law 110 must be grounded upon the essentiality of performing one of the unusual functions assigned to this Agency by law. It would appear that Tab E of the study concerned does not provide a basis therefor.

7. This office therefore replies to your inquiry in the negative.

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Assistant General Counsel